



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2013

Ms. Marlene K. Sparkman
General Counsel
Texas State Securities Board
P.O. Box 13167
Austin, Texas 78711-3167

OR2013-18306

Dear Ms. Sparkman:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 504230.

The Texas State Securities Board (the "board") received a request for all certified mail certificates issued by the board since January of 2010, including the name and address of each recipient. The board claims some of the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Article 581-28 of the Texas Securities Act (the "TSA") provides in part the following:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

A. Investigations by Commissioner. The Commissioner shall conduct investigations as the Commissioner considers necessary to prevent or detect the violation of [the TSA] or a Board rule or order. For this purpose, the Commissioner may require, by subpoena or summons issued by the Commissioner, the attendance and testimony of witnesses and the production of all records, whether maintained by electronic or other means, relating to any matter which the Commissioner has authority by [the TSA] to consider or investigate, and may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence; provided, however, that all information of every kind and nature received in connection with an investigation and all internal notes, memoranda, reports, or communications made in connection with an investigation shall be treated as confidential by the Commissioner and shall not be disclosed to the public except under order of court for good cause shown.

V.T.C.S. art. 581-28(A). You state the information you have marked in the submitted mail logs, certified mail logs, and stamp logs is used by the Enforcement Division and Inspections Division of the board in the course of investigations to prevent or detect violations of the TSA or a board rule or order. Based on your representation and our review of the information at issue, we agree this information consists of internal notes, memoranda, reports, or communications made in connection with an investigation. Therefore the information you have marked is confidential under article 581-28 of the TSA and the board must withhold it under section 552.101 of the Government Code on that ground.² The board must release the remaining information.

You also request this office issue a "previous determination" that would permit the board in the future to withhold from disclosure internal notes, memoranda, reports, or communications made by the board in connection with an investigation to prevent or detect a violation of the TSA, board rule, or order without the need of requesting a ruling from us about whether such information can be withheld from disclosure. We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us. Therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²As our ruling is dispositive, we do not address your other arguments to withhold this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 504230

Enc. Submitted documents

c: Requestor
(w/o enclosures)